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Judicial auctions

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France

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1. Advertising and setting the price of seized assets

A. Acts preparatory to a compulsory auction

A compulsory auction of immovable property must be advertised by the creditor:

- by means of notices displayed in a place easily accessible to the public on court premises; the notice should designate the immovable property seized, provide a summary description (nature, any occupation, all the details known about its surface area) and mention the starting price.
- by means of a simplified notice displayed by the entrance to the property for sale,
- by placing a notice in a publication which carries legal notices with a local circulation.

The creditor may place further advertisements under his/her responsibility or with the court's permission.

The compulsory auction of movable property must be advertised by notices displayed at the town hall of the municipality in which the debtor resides, and at the place of auction.

Additional advertisements may be made by the professional who will perform the auction on their own website or, in the case of judicial auctioneers (*'commissaires-priseurs judiciaires'*), on the appropriate websites of the profession: <https://www.interencheres.com/> or <https://www.interencheres.com/>, or by advertising in the press, a prospectus or a catalogue. The advertisement may include the description of the goods and their estimated value.

Property for sale at public auction is presented during the auction by the judicial auctioneer or the authorised professional organising the sale. An prior viewing of the property may be arranged.

Immovable property seized may be visited on the dates and at the times set by the judge (Article R. 322-26 of the Civil Enforcement Procedure Code [CPCE]) and visitors will be accompanied by a bailiff. The conditions of sale, which includes in particular an official report of the description of the goods sold as established by a bailiff, and also the main terms of the sale may be freely consulted at the registry of the regional court (*greffe du tribunal judiciaire*) in charge of the sale or, under conditions, in the office of the petitioning lawyer.

B. Starting price and auction operation

In cases involving property seizures, the creditor concerned is responsible for drawing up the conditions of sale. He/she sets the starting price, which can however be contested by the debtor, with the judge then being required to issue a ruling after the directions hearing (*audience d'orientation*).

In cases involving seizure of moveable property, the professional in charge of the auction freely sets the starting price for the auction. The professional conducting the auction may call on the services of an expert to estimate the value of the property if required.

As regards auctions and in terms of moveable property, the highest and final bidder will be awarded the property. It should be noted that auctions are not limited in time, and a property can only be awarded after counting down the three calls to the end of the auction. Taking part in the auction does not require that any

guarantee or security be lodged.

In cases involving seized immovable assets, an ascending-bid system is used, where each bid must be higher than the one before; the auction is stopped when 90 seconds have elapsed since the last bid (this time is counted down by a visual and acoustic method that signals each passing second to the public).

Anyone interested in participating in the auction must issue their lawyer with a non-returnable bank security or a bank cheque payable to the receiver (*séquestre*) or the Deposits and Consignments Fund (*Caisse des Dépôts et Consignations*) representing 10% of the amount of the starting price (this amount may not be less than EUR 3 000). This sum is returned to the bidder at the end of the auction if they are not declared the successful bidder.

2. Third parties authorised to carry out the sale

Judicial auctioneers, notaries, sworn commodities brokers and bailiffs are the only professionals authorised to organise public judicial auctions of moveable property (in particular seized moveable property).

Auctions of immovable property are sought only before the enforcement court of the civil court (*tribunal judiciaire*).

3. Types of judicial auction to which the rules may only partially apply

In cases involving moveable property, voluntary sales at public auctions can occur and are subject to much more flexible rules than judicial auctions. Articles L. 321-1 et seq. and R. 321-1 et seq. of the Commercial Code apply. Voluntary sales fall outside the framework of forced execution procedures, which are judicial.

As regards immovable property, the sale may be ordered as a sale by auction of property held in common or by the insolvency judge as part of collective proceedings against the owner. In both cases, the terms of the sale are set in the judicial decision ordering the sale.

4. Information on the national property registers

In cases involving immovable property, the land register, which is an administrative and fiscal document, can provide information for the creditor on the immovable property held by the debtor within a municipality and what it comprises (immovable property developed or undeveloped, the surface area of parcels of land and the nature of each site). In addition, the land registration services (administrative services of the Directorate-General for Public Finance - *Direction Générale des Finances Publiques*) maintain a property file for each municipality, listing extracts of the documents published under the name of each owner and for each property, and thus presenting the legal situation of each property.

In respect of moveable property, the SIV (*Système d'Immatriculation des Véhicules* - vehicle registration system) provides information on the civil status of the holders of registration certificates for motor vehicles and two-wheeled vehicles, and the registration number and characteristics of the vehicle. There are national files for the compulsory registration of ships (decrees currently being drawn up), boats (computerised register maintained by the Ministry of Transport) and aircraft (register maintained by the ministry in charge of civil aviation). Intellectual property rights are listed in a national file which can be accessed directly by creditors and is maintained by the National Institute for Intellectual Property (*Institut national de la propriété intellectuelle* - 'INPI'). The titles of films intended for public screening in France are listed in the public cinema and audiovisual register, which is administered by a tax administration official, and the titles of literary works with the option to purchase adaptation rights are compiled in a register of options.

In terms of immovable property, the land register is maintained by each municipality and includes several series of documents (cadastral map, subdivision listing, land tax register), of which only the cadastral map is available online. The land register is kept by the land registration services, which are based locally, under the responsibility of each Regional Court (*Tribunal de grand instance*). There is no national file.

For motor vehicles, each prefecture keeps one register, but the SIV maintains a national data file.

For boats, the computerised register is maintained by the Ministry of Transport; for ships, there are six different registers that are also maintained by the Ministry of Transport.

For aircraft, the register maintained by the ministry in charge of civil aviation can be accessed online for information purposes.

Information on the various intellectual property rights is maintained centrally by a single body, the National Institute for Intellectual Property (INPI), which provides access to various documentary records through its website.

Some, but not all, land register services can be accessed online. Only the cadastral map can be viewed, but not the land tax register which provides information on property owners, in a similar way to the SIV, the French international register of French-registered ships, and the INPI registers.

Generally, most of the publicly available registers are subject to the provisions of the Code on Relations between the public and the authorities, which provides that access to administrative documents should be free of charge when consulted on the spot, or charged for at a cost equivalent to the cost of copying them if a copy is provided, or free of charge when sent by email if the document is available in digital format.

5. Information on the databases that enable creditors to identify assets and a debtor's debt obligations

Article L.152-1 of the CPCE allows bailiffs to obtain communication of information identifying the debtor's address, the identity and address of their employer or of any third-party debtor or custodian of liquid or payable sums and the composition of their real-estate assets from State, regional, departmental and municipal administrations and public institutions or bodies controlled by the administrative authority.

Bailiffs can request information directly from FICOBA (the national database of bank accounts, managed by the tax authorities and with input provided by the banks) to obtain information on the possible existence of bank accounts in the name of the debtor, and where these accounts are held.

They may also request information from health and unemployment insurance funds.

Under Article L. 152-2 of the CPCE, the banks are required to inform the bailiff mandated by the creditor if one or more accounts are open in the name of the debtor and the locations of these accounts, but not to provide any other information.

The SIV, which the bailiff mandated by the creditor may access, provides information on the civil status of the holder of registration certificates for motor vehicles and two-wheeled vehicles, the registration number and the vehicle's characteristics.

The creditor may not access these databases directly, but can do so through the bailiff mandated to perform the enforcement.

6. Information about online judicial auctions

There are two types of online auction in France for the auctioning of moveable property:

- Live auctions, which are partially computerised: the sale physically takes place at a given location and is broadcast live online on the website of the professional person or body conducting the auction, or on one of the appropriate websites available to professional auctioneers (<https://www.interencheres.com/> or <https://uk.drouot.com/>). These judicial auctions are permitted as there is nothing to prevent them and they are becoming increasingly common.
- Online auctions, which are entirely computerised: the auction takes place solely online, without a physical presence at a given location. Such auctions are not permitted in judicial cases under the current law (although they are in voluntary cases) owing to technical legal hurdles.

(Partially) computerised auctions are only possible for moveable property.

The professionals who conduct the auctions may advertise them outside France, and bids may be submitted from any bidder irrespective of their location or nationality and whether the sale is live or not (there are also remote auction procedures whereby bids are transmitted in writing or by telephone).

In order to take part in a computerised auction, the person (potential bidder) is not required to provide their signature, but the professional in charge of the auction may require a credit card imprint. The professional in charge of the auction receives registrations, which can in principle be conveyed by any means, the most common being through the website on which the auction will be broadcast. Written bids are possible on any medium.

The professional in charge of the auction determines the accepted means of payment.

Remote bidders are not required to attend in person (but they may do so if they wish). They can follow the auction live and bid in real time. They may also register one or more order to buy before the sale. In such cases the bids will increase progressively, taking the bid offered into account from the beginning. A telephone link is also generally available during the auction.

Translation possibilities depends on the professional in charge of the sale and their assistants as there are no specific provisions in this regard.

Given the configurations of auction websites, only people who have registered for the online auction may access the auction through the website in question. However, the auctions is open to the public at its physical location.

■ Last update: 05/01/2022

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